I. Claims 1-2 are drawn to a biopolymer having SKITHRIHWESASLL (SEQ ID NO: 1), classified in class 530, subclass 300 or class 530, subclass 350 for example.

II. Claims 3-9, 18-28 and 33-35 are drawn to methods and kits which not only detect SEQ ID NO: 1, further requiring a correlation to disease state, diagnosing, therapeutic avenues, an/or risk assessment, classified in class 436, subclass 518 and class 424, subclass 93.1 for example.

III. Claims 10-17 are drawn to kit for merely detecting SEQ ID NO: 1, classified in class 422, subclass 61 for example.

IV. Claims 29-32 are drawn to antibodies that bind SEQ ID NO: 1, classified in class 530, subclass 387.1/387.2 and class 424, subclass 130.1 for example.

Applicants hereby elect, with traverse, the Group II invention, for further prosecution on the merits.

It is understood that claims 1-2, 10-17, and 29-32 drawn to the non-elected invention, will remain pending, albeit withdrawn from further consideration in this application.

SUMMARY

This case is related, in claim format to several pending applications of which S.N. 09/846,352 is exemplary. After discussions with the Examiner in the '352 case, and subsequent to a Restriction Requirement and subsequent rejoinder under *Ochai*, Applicants have received a Notice of Allowability that the following claims would receive favorable consideration:

CLAIMS OF S.N. 09/846,352

Claim 1. A biopolymer marker peptide consisting of SEQ ID NO:1 diagnostic for Type II diabetes.

Claim 3. A method for diagnosing Type II diabetes comprising:

(a) obtaining a sample from a patient;

(b) conducting mass spectrophotometric analysis on said sample in a manner effective to maximize elucidation of discernible peptide fragments contained therein; and

(c) comparing mass spectrum profiles of a peptide consisting of SEQ ID NO:1 to mass spectrum profiles of peptides elucidated from said sample; wherein recognition of a mass spectrum profile in the sample displaying the characteristic profile of the mass spectrum profile for the peptide of SEQ ID NO:1 is diagnostic for Type II diabetes.

Claim 6. The method of claim 3, wherein the sample is an unfractionated body fluid or a tissue sample.

Claim 7. The method of claim 3, wherein said sample is selected from the group consisting of blood, blood products, urine, saliva, cerebrospinal fluid, and lymph.

Claim 8. The method of claim 3, wherein said mass spectrophotometric analysis is Surface Enhanced Laser Desorption Ionization (SELDI) mass spectrometry (MS).

Claim 9. The method of claim 3, wherein said patient is a human.

Claim 10. A Type II diabetes diagnostic kit comprising: (a) a peptide consisting of SEQ ID NO:1 and (b) an antibody that binds to said peptide in a sample from a patient.

Claim 11. The diagnostic assay kit of claim 10, wherein said antibody is immobilized on a solid support.

Claim 12. The diagnostic kit of claim 10, wherein said antibody is labeled.

Applicants thus traverse the requirement since claims of alternative scope have been deemed allowable in a single application.

In an effort to maintain equivalent scope in these applications, Applicants would respectfully request that the Examiner reconsider the requirement to include a similar grouping of claims. Applicants would elect such a group, without traverse, and file a supplemental amendment to place the claims in a similar form, so as to be commensurate in scope.

If the Examiner is amenable to these changes, please contact the undersigned via telephone, and a supplemental response will be filed immediately, via facsimile, in order to expedite prosecution.

Respectfully submitted,

Ferris Lander 3/01/03

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